

Audit Committee – 25 November 2022

Title of paper:	Exemption from Contract Procedure Rules quarter two 2022/23	
Corporate Director:	Clive Heaphy - Finance and Resources	Wards affected: All
Report author and contact details:	Steve Oakley - Head of Procurement steve.oakley@nottinghamcity.gov.uk	
Other colleagues who have provided input:	None.	
Does this report contain any information that is exempt from publication? No		
Recommendations:		
1.	To note the number of exemptions from Contract Procedure Rules during quarter two of 2022/23 and the exemptions since October 2021.	
2.	To note the actions that continue to be taken to ensure that contracts are awarded in line with Contract Procedure Rules and that exemptions only occur where there is a sound rationale for approving the exemption.	

1. Reasons for recommendations

- 1.1 As part of the new Constitution all exemptions from Contract Procedure rules need to be reported to Audit Committee on a quarterly basis, Article 18.79. This report outlines all exemptions requested during the period from July to September 2022.
- 1.2 The original audit report identified actions needed across Nottingham City Council to address poor compliance with the old Financial Regulations and Contract Procedure Rules. This report also provides an update on actions taken and planned to improve compliance with the new Constitution and in particular Contract Procedure rules.

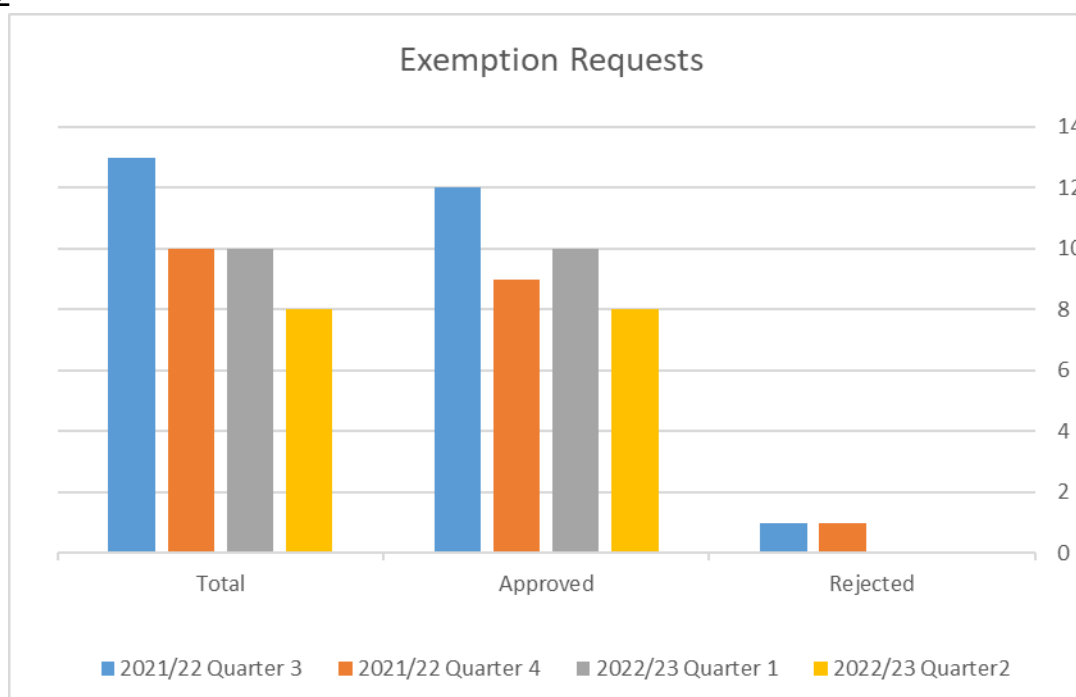
2. Background

- 2.1 An audit of Procurement Dispensations was undertaken in 2021 and identified significant non-compliance with Financial Regulations and Contract Procedure Rules which resulted in higher than would be expected requests for Dispensation from Financial Regulations.
- 2.2 With the development of a revised Constitution it was agreed to change the Contract Procedure Rules and include the need for a formal record of all exemptions to be taken separately to seeking approval for spend. Article 18 Contract Procedure Rules includes an exemption form that is completed whenever an exemption from Article 18 is requested. These forms are reviewed by the Head of Procurement prior to seeking the approval of the Director of Finance and Resources. Once approved these are collated by the Head Procurement to ensure a comprehensive record of all exemptions is maintained.

- 2.3 There will always be some requests for exemption from Contract Procedure Rules as not all contracts can be let through a formal tendering or quotation process for various reasons. An example is where there is only one supplier for technical reasons.
- 2.4 Article 18.79 requires a report to Audit Committee on a quarterly basis of all exemptions from Article 18. This report provides the fourth quarterly report since the new Constitution was implemented in October 2021.
- 2.5 The following table outlines the number of exemptions requested and approved during the year from October 2021 to September 2022. Appendix 1 lists the eight exemption requests with the reasons for the decision.

	Total	Approved	Rejected
2021/22 Quarter 3	13	12	1
2021/22 Quarter 4	10	9	1
2022/23 Quarter 1	10	10	0
2022/23 Quarter 2	8	8	0

- 2.6 The chart below shows the exemption requests to date from November 2021 to June 2022



- 2.7 Of the approved requests seven were unavoidable with no alternative option to the exemption for various reasons. The other exemption may have been avoidable if plans had been discussed with Procurement at an earlier stage.
- 2.8 The eight approved exemptions total £1.41m with an average of £0.176m
- 2.9 Procurement continue to work with departments to ensure exemptions only come forward when there is no alternative. Wherever possible alternative solutions are found that do not require an exemption.
- 2.10 Approved exemption requests are lower this quarter than the three previous quarters. This is significantly lower than the previous year's dispensation requests. The original audit work had shown on average 16 dispensations/exemptions per quarter in 2020 and

2021 against the 8 this quarter and an average of 9.75 per quarter since the new constitution was launched in October 2021.

- 2.11 It is important to note that this month five of the eight would have been allowed under Public Contract Regulations 2015 (PCRs) for technical reasons, but needed an exemption from NCCs Contract Procedure Rules. The remaining three were all below PCR threshold and there were good reasons for each to be awarded following an exemption.

Key actions undertaken this quarter

- 2.12 Procurement have produced the first draft of a new pipeline of works to replace the old procurement plan. This will be shared with Directors during November. This will support planning with departments and aims to reduce the late requests for procurement support.
- 2.13 The Compliant Purchasing Team, within Procurement, continue to work with the Category Manager to ensure any request that is not following best practice is added to the longer term Category plan or alternative compliant purchasing options implemented.
- 2.14 The proposed new operating model work has been completed and the costs of implementation have been included in the plans for 2023/24 budget.
- 2.15 The Procurement training programme is now live on the Learning Zone and the Contract Management Training is now being formatted into an e-training package ready for dissemination to all colleagues that undertake any purchasing.

3. Background papers other than published works or those disclosing exempt or confidential information

- 3.1 None.

4. Published documents referred to in compiling this report

- 4.1 Follow-up audit report Contract Management 2021
- 4.2 Internal Audit Report Procurement Dispensations
- 4.3 Contract Management and Procurement Audits 2021
- 4.4 Exemption from Contract Procedure Rules quarter three 2021/22
- 4.5 Exemption from Contract Procedure Rules quarter four 2021/22
- 4.6 Exemption from Contract Procedure Rules quarter two 2022/23

Title of Exemption	Division	Directorate	Supplier	Date Signed	Outcome	Value	Avoidable	Rationale for exemption/ Procurement Reason for Supporting
Microsoft support services	ICT	Finance and Resources	Microsoft	08/08/2022	Approved	£122,833	N	Direct Award sole supplier under regulation 32 - Microsoft are the only supplier who can provide this for Microsoft products
Swimming Pool Hire for School Swimming	Education	Peoples	Lenton Centre and Notts County	01/08/2022	Approved	£149,000	N	Direct Award sole supplier under regulation 32 - the schools require pools within a specific distance from the school
District Heating Network Condition Survey	District Heating and Waste Strategy	Growth and City Development	Vital Energy	10/08/2022	Approved	£117,235	N	Direct Award below threshold, previous work had been undertaken by this supplier and any other supplier would not have the background information so best value achieved with existing supplier
Centre of excellence membership	Carbon Reduction, Energy and Sustainability	Growth and City Development	The Retrofit Academy	30/08/2022	Approved	£410,000	N	Direct Award sole supplier under regulation 32 - following market testing it became clear that only the chosen supplier could provide these services
Family Court Service	Community Protection	Resident Services	Juno Women's Aid	14/09/2022	Approved	£136,168	Y	Direct Award below threshold - process undertaken but not in line with CPRs so exemption required
Vehicle to Grid Bid Directional Chargers	Carbon Reduction, Energy and Sustainability	Growth and City Development	EV Charging Solutions	01/09/2022	Approved	£148,748	N	Direct Award below threshold following failed tender regulation 32, failed to find a solution following tender so inline with Regulation 32 negotiated procedure used without competition
ESOL Schemes	Community Protection	Resident Services	Enable	01/09/2022	Approved	£90,000	N	Direct Award below threshold, longer term solution needed to replace existing agreement continue with current arrangement until tender complete
Maintenance of ANPR Camera Enforcement	Traffic and Safety	Growth and City Development	Yunex	15/09/2022	Approved	£233,379	N	Direct Award sole supplier under regulation 32 - only Yunex can provide maintenance on their cameras